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BEFORE THE ARIZONA CORPORATION COMMISSION

COMMISSIONERS

GARY PIERCE - Chairman
BOB STUMP
SANDRA D. KENNEDY
PAUL NEWMAN
BRENDA BURNS

GEORGE BEIN-WILLNER, for
GLENDALE & 27TH INVESTMENTS, LLC

COMPLAINANT,

V.

QWEST CORPORATION,

RESPONDENT.

2011 FEB 17 P 1:36

ARIZONA CORPORATION COMMISSION
DOCKET CONTROL

Arizona Corporation Commission

DOCKETED

FEB 17 2011

DOCKETED BY

DOCKET NO. T-01051B-10-0200

PROCEDURAL ORDER

BY THE COMMISSION:

On May 17, 2010, George Bein-Willner, for Glendale & 27th Investments, LLC ("Complainant") filed with the Arizona Corporation Commission ("Commission") a Formal Complaint ("Complaint") against Qwest Corporation ("Qwest"). The Complaint alleges that Qwest has incorrectly billed Complainant, who owns and operates Sterling International Hotel, for a 1-800 line that should have terminated in 2004. Complainant requests relief in the amount of approximately \$10,000.

On June 10, 2010, Qwest filed an Answer to the Complaint, denying the allegations alleged in the Complaint. Qwest's Answer states that as a gesture of goodwill, and not as an admission of liability, Qwest provided Complainant a back credit to July 2009 and Qwest requests that the Commission dismiss the Complaint.

On August 16, 2010, by Procedural Order, Qwest's Motion to Dismiss was denied and a procedural conference was set for September 8, 2010

On August 20, 2010, Complainant filed a letter requesting that the procedural conference scheduled for September 8, 2010, be rescheduled for early October, due to a conflict in Complainant's business schedule.

On August 26, 2010, Qwest filed a response to Complainant's request for a continuance of the

1 procedural conference. Qwest stated that it had no objection to the continuance and requested to
2 appear telephonically if the newly scheduled date conflicted with Qwest counsel's travel schedule.

3 On August 27, 2010, a Procedural Order was issued continuing the procedural conference to
4 October 7, 2010, and Qwest's request to appear telephonically was granted.

5 On October 7, 2010, the procedural conference was held as scheduled. Qwest appeared
6 through counsel and Complainant appeared on his own behalf. During the procedural conference, the
7 parties requested that Staff conduct an informal mediation to provide clarification on the issues
8 involved in the Complaint and to see if settlement of the issues is possible.

9 By Procedural Order dated November 4, 2010, Staff was directed to engage in an informal
10 mediation with the parties in an effort to clarify the issues involved in the Complaint and to determine
11 if settlement of the issues is possible.

12 On December 7, 2010, Staff filed a Motion to Forego Staff Participation in Informal
13 Mediation ("Motion"). Staff states it has reviewed the issues in this matter during the informal
14 complaint proceeding. Staff explained that during the informal process Staff acts as a mediator and
15 the process allows complainants who are unfamiliar with Commission proceedings to attempt to
16 resolve their issues in a more relaxed setting. Staff states that both Complainant and Qwest are
17 familiar with Commission proceedings and to conduct additional informal proceedings is
18 unnecessary. Staff states that re-examining the issues at the informal complaint level would be an
19 inefficient use of Staff's limited resources and that this matter should continue as a Formal
20 Complaint.

21 On December 10, 2010, the Complainant filed a Response to Staff's Motion ("Response").
22 Complainant states that under A.A.C. R14-2-510, Complainant is entitled to participate in the
23 informal complaint process. On January 5, 2011, Staff filed its Reply in Support of Staff's Motion
24 ("Reply"). In the Reply, Staff reasserts its position that the matter should proceed thru the Formal
25 Complaint process. Staff states that Complainant will be afforded due process through the Formal
26 Complaint proceeding.

27 On February 15, 2011, Complainant filed a letter requesting immediate assistance in
28 addressing the issues raised in this docket. Complainant's letter further states that Complainant

1 believes that this matter has been unjustly delayed to the benefit of Qwest.

2 Complainant has been afforded an opportunity to participate in the Commission's informal
3 compliant process. Based on the information in Staff's Motion, Complainant's Response, and
4 Complainant's letter, it is appropriate to grant Staff's Motion and to set an evidentiary hearing to
5 resolve the issues raised in this matter.

6 IT IS THEREFORE ORDERED that Staff's Motion is hereby granted.

7 IT IS FURTHER ORDERED that the **hearing** in the above-captioned matter shall commence
8 on **May 2, 2011, at 10:00 a.m.**, or as soon thereafter as is practicable, at the Commission's offices,
9 1200 West Washington Street, Hearing Room 1, Phoenix, Arizona 85007.

10 IT IS FURTHER ORDERED that **Complainant and Qwest** may conduct discovery through
11 **April 1, 2011.**

12 IT IS FURTHER ORDERED that discovery shall be permitted by law and the rules and
13 regulations of the Commission. Any objection to discovery requests shall be made within three
14 calendar days of receipt¹ and responses to discovery requests shall be made within seven calendar
15 days of receipt. The response time may be extended by mutual agreement of the parties involved if
16 the request requires an extensive compilation effort.

17 IT IS FURTHER ORDERED that for discovery requests, objections, and answers, if a
18 receiving party requests service to be made electronically, and the sending party has the technical
19 capability to provide service electronically, service to that party shall be made electronically.

20 IT IS FURTHER ORDERED that, in the alternative to filing a written motion to compel
21 discovery, any party seeking resolution of a discovery dispute may telephonically contact the
22 Commission's Hearing Division to request a date for a procedural hearing to resolve the discovery
23 dispute; that upon such a request, a procedural hearing will be convened as soon as practicable; and that
24 the party making such a request shall contact all other parties to advise them of the hearing date and
25 shall at the procedural hearing provide a statement confirming that the other parties were contacted.²

26
27 ¹ The date of receipt of discovery requests is not counted as a calendr day, and requests received after 4:00 p.m. MST will
be considered as received the next business day.

28 ² The parties are encouraged to attempt to settle discovery disputes through informal, good-faith negotiations before
seeking Commission resolution of the controversy.

1 IT IS FURTHER ORDERED that **Complainant and Qwest** shall file a joint Status Report
2 discussing any issues that have been resolved on or before **April 15, 2011**.

3 IT IS FURTHER ORDERED that any **Responses to Motions** shall be filed within five days
4 of the Motion.

5 IT IS FURTHER ORDERED that any **Motions** which are filed in this matter and which are
6 not ruled upon by the Commission within 20 days of the filing date of the Motion shall be deemed
7 denied.

8 IT IS FURTHER ORDERED that the **direct testimony and associated exhibits** to be
9 presented at hearing **by Complainant** shall be reduced to writing and filed on or before **March 18,**
10 **2011**.

11 IT IS FURTHER ORDERED that the **rebuttal testimony and associated exhibits** to be
12 presented at hearing **by Qwest** shall be reduced to writing and filed on or before **April 8, 2011**.

13 IT IS FURTHER ORDERED that the **surrebuttal testimony and associated exhibits** to be
14 presented at hearing **by Complainant** shall be reduced to writing and filed on or before **April 22,**
15 **2011**.

16 IT IS FURTHER ORDERED that **any objections to testimony or exhibits** that have been
17 filed as of **April 22, 2011**, shall be made on or before **April 27, 2011**.

18 IT IS FURTHER ORDERED that **any substantive corrections, revisions, or supplements**
19 **to the pre-filed testimony** shall be reduced to writing and filed no later than **April 27, 2011**.

20 IT IS FURTHER ORDERED that the Ex Parte Rule (A.A.C. R14-3-113-Unauthorized
21 Communications) applies to this proceeding.

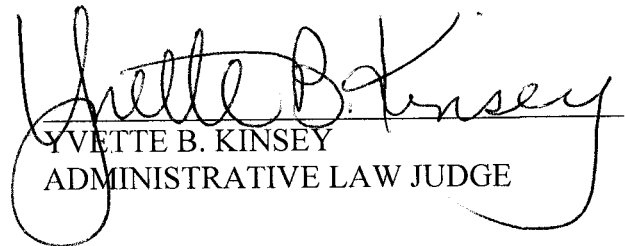
22 IT IS FURTHER ORDERED that all parties must comply with Arizona Supreme Court Rules
23 31 and 38 and A.R.S. § 40-243 with respect to practice of law and admission *pro hac vice*.

24 IT IS FURTHER ORDERED that withdrawal of representation must be made in compliance
25 with A.A.C. R14-3-104(E) and Rule 1.16 of the Rules of Professional Conduct (Arizona Supreme
26 Court Rule 42). Representation before the Commission includes the obligation to appear at all
27 hearings and procedural conferences, as well as all Open Meetings for which the matter is scheduled
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1 for discussion, unless counsel has previously been granted permission to withdraw by the
2 Administrative Law Judge or the Commission.

3 IT IS FURTHER ORDERED that the Administrative Law Judge may rescind, alter, amend,
4 or waive any portion of this Procedural Order either by subsequent Procedural Order or by ruling at
5 hearing.

6 DATED this 17th day of February, 2011.

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YVETTE B. KINSEY
ADMINISTRATIVE LAW JUDGE

11 Copies of the foregoing mailed/delivered
12 this 17th day of February, 2011, to:


13 George Bein-Willner
14 GLENDALE & 27TH INVESTMENTS, LLC
3641 North 39th Avenue
Phoenix, AZ 85004

15 Norman G. Curtright, Corporate Counsel
16 QWEST CORPORATION
20 East Thomas Road, 16th Floor
Phoenix, AZ 85012-3114

17 Janice Alward, Chief Counsel
18 Legal Division
19 ARIZONA CORPORATION COMMISSION
1200 West Washington Street
Phoenix, AZ 85007

20 Steven M. Olea, Director
21 Utilities Division
22 ARIZONA CORPORATION COMMISSION
1200 West Washington Street
Phoenix, AZ 85007

23 ARIZONA REPORTING SERVICE, INC.
24 2200 North Central Avenue, Suite 502
Phoenix, AZ 85004-1481

25
26 By: 
27 Debra Broyles
Secretary to Yvette B. Kinsey
28